2020 INSC 672

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO.3543 of 2020

PARAMVIR SINGH SAINI …PETITIONER

VERSUS

BALJIT SINGH & OTHERS ...RESPONDENTS

R.F. Nariman, J.

1. We have heard Shri K.K. Venugopal, learned Attorney General for India, Ms. Madhvi Divan, learned Addl. Solicitor General of India, Shri Siddhartha Dave, learned Senior Advocate (appointed as Amicus Curiae, vide Order dated 16.7.2020), Ms. Nitya Ramakrishnan, learned counsel appearing on behalf of the intervenor and the learned counsel appearing on behalf of the respective States and Union Territories.

2. This Court, vide Order dated 03.04.2018 in SLP (Crl) No. 2302 of 2017, reported as **Shafhi Mohammad v. State of Himachal Pradesh** (2018) 5 SCC 311, directed that a Central Oversight Body (hereinafter referred to as the "COB") be set up by the Ministry of Home Affairs to implement the plan of action with respect to the use of videography in the crime scene during the investigation. This Court,

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Date: 2020.12.02 17:26:18 IST
Reason:

while considering the directions issued in **D.K. Basu Vs. State of West Bengal & Others** (2015) 8 SCC 744, held that there was a need for further directions that in every State an oversight mechanism be created whereby an independent committee can study the CCTV camera footages and periodically publish a report of its observations thereon. The COB was further directed to issue appropriate instructions in this regard at the earliest.

3. This Court further directed that the COB may issue appropriate directions from time to time so as to ensure that use of videography becomes a reality in a phased manner, the first phase of which be implemented by 15.07.2018. The crime scene videography ought to be introduced at least at some places as per viability and priority determined by the COB.

4. Pursuant to the aforesaid directions a COB was constituted by the Ministry of Home Affairs on 09.05.2018 (as per the Affidavit dated 26.07.2018) to oversee the implementation of the use of photography and videography in the crime scene by the State / Union Territory Government and other Central Agencies, to suggest the possibility of setting up a Central Server for implementation of videography, and to issue appropriate directions so as to ensure that use of videography becomes a reality in a phased manner. Accordingly, directions were issued to the Administrators of the Union Territory, State

Governments and other Central Agencies for effective implementation of the use of photography and videography at the crime scenes, and to furnish an Action Taken Report on the implementation of the use of videography in the crime scene.

5. This Court, vide Order dated 16.07.2020, issued notice in the instant Special Leave Petition to the Ministry of Home Affairs on the question of audio-video recordings of Section 161 CrPC statements as is provided by Section 161 (3) proviso, as well as the larger question as to installation of CCTV cameras in police stations generally. While issuing notice this Court also took note of the directions in **Shafhi Mohammad** (supra).

6. This Court, vide Order dated 16.09.2020, impleaded all the States and Union Territories to find out the exact position of CCTV cameras qua each Police Station as well as the constitution of Oversight Committees in accordance with the Order dated 03.04.2018 of this Court in **Shafhi Mohammad** (supra).

7. Pursuant to the said directions of this Court, Compliance Affidavits and Action Taken Reports were filed by 14 States (till 24.11.2020), namely, West Bengal, Chhattisgarh, Tamil Nadu, Punjab, Nagaland, Karnataka, Tripura, Uttar Pradesh, Assam, Sikkim, Mizoram, Madhya Pradesh, Meghalaya, Manipur; and 2 Union Territories, namely, Andaman & Nicobar Islands and Puducherry.

8. The majority of the Compliance Affidavits and Action Taken Reports fail to disclose the exact position of CCTV cameras qua each Police Station. The affidavits are bereft of details with respect to the total number of Police Stations functioning in the respective State and Union Territory; total number of CCTV cameras installed in each and every Police Station; the positioning of the CCTV cameras already installed; working condition of the CCTV cameras; whether the CCTV cameras have a recording facility, if yes, then for how many days/hours, have not been disclosed. Further, the position qua constitution of Oversight Committees in accordance with the Order dated 03.04.2018, and/or details with respect to the Oversight Committees already constituted in the respective States and Union Territory have also not been disclosed.

9. Compliance affidavits by all the States and Union Territories are to be filed, as has been stated earlier, by either the Principal Secretary of the State or the Secretary, Home Department of the States/Union Territories. This is to be done by all the States and Union Territories, including those who have filed so-called compliance affidavits till date, stating the details mentioned in paragraph 8 of this Order. These affidavits are to be filed within a period of six weeks from today.

10. So far as constitution of Oversight Committees in accordance with our Order dated 03.04.2018 is concerned, this should be done at the

State and District levels. The State Level Oversight Committee (hereinafter referred to as the "SLOC") must consist of:

(i) The Secretary/Additional Secretary, Home Department;

(ii) Secretary/Additional Secretary, Finance Department;

(iii) The Director General/Inspector General of Police; and

(iv) The Chairperson/member of the State Women's Commission.

11. So far as the District Level Oversight Committee (hereinafter referred to as "DLOC") is concerned, this should comprise of:

(i) The Divisional Commissioner/ Commissioner of Divisions/ Regional Commissioner/ Revenue Commissioner Division of the District (by whatever name called);

(ii) The District Magistrate of the District;

(iii) A Superintendent of Police of that District; and

(iv) A mayor of a municipality within the District/ a Head of the Zilla Panchayat in rural areas.

12. It shall be the duty of the SLOC to see that the directions passed by this Court are carried out. Amongst others, the duties shall consist of:

a) Purchase, distribution and installation of CCTVs and its equipment;

b) Obtaining the budgetary allocation for the same;

c) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;

d) Carrying out inspections and addressing the grievances received

from the DLOC; and

e) To call for monthly reports from the DLOC and immediately address any concerns like faulty equipment.

Likewise, the DLOC shall have the following obligations:

a) Supervision, maintenance and upkeep of CCTVs and its equipment;

b) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;

c) To interact with the Station House Officer (hereinafter referred to as the "SHO") as to the functioning and maintenance of CCTVs and its equipment; and

d) To send monthly reports to the SLOC about the functioning of CCTVs and allied equipment.

e) To review footage stored from CCTVs in the various Police Stations to check for any human rights violation that may have occurred but are not reported.

13. It is obvious that none of this can be done without allocation of adequate funds for the same, which must be done by the States'/Union Territories' Finance Departments at the very earliest.

14. The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned. It shall be the duty and obligation of the SHO to

immediately report to the DLOC any fault with the equipment or malfunctioning of CCTVs. If the CCTVs are not functioning in a particular police station, the concerned SHO shall inform the DLOC of the arrest / interrogations carried out in that police station during the said period and forward the said record to the DLOC. If the concerned SHO has reported malfunctioning or non-functioning of CCTVs of a particular Police Station, the DLOC shall immediately request the SLOC for repair and purchase of the equipment, which shall be done immediately.

15. The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc.

16. The State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the respective State and/or Union Territory. Further, in order to ensure that no part of a Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points;

main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub-Inspector's room; areas outside the lock-up room; station hall; in front of the police station compound; outside (not inside) washrooms/toilets; Duty Officer's room; back part of the police station etc.

17. CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in

any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly indicate that the best equipment available as of date has been purchased.

18. Whenever there is information of force being used at police stations resulting in serious injury and/or custodial deaths, it is necessary that persons be free to complain for a redressal of the same. Such complaints may not only be made to the State Human Rights Commission, which is then to utilise its powers, more particularly under Sections 17 and 18 of the Protection of Human Rights Act, 1993, for redressal of such complaints, but also to Human Rights Courts, which must then be set up in each District of every State/Union Territory under Section 30 of the aforesaid Act. The Commission/Court can then immediately summon CCTV camera footage in relation to the incident for its safe keeping, which may then be made available to an investigation agency in order to further process the complaint made to it.

19. The Union of India is also to file an affidavit in which it will update this Court on the constitution and workings of the Central Oversight Body, giving full particulars thereof. In addition, the Union of India is also

directed to install CCTV cameras and recording equipment in the offices of:

(i) Central Bureau of Investigation (CBI)

(ii) National Investigation Agency (NIA)

(iii) Enforcement Directorate (ED)

(iv) Narcotics Control Bureau (NCB)

(v) Department of Revenue Intelligence (DRI)

(vi) Serious Fraud Investigation Office (SFIO)

(vii) Any other agency which carries out interrogations and has the power of arrest.

As most of these agencies carry out interrogation in their office(s), CCTVs shall be compulsorily installed in all offices where such interrogation and holding of accused takes place in the same manner as it would in a police station.

The COB shall perform the same function as the SLOC for the offices of investigative/enforcement agencies mentioned above both in Delhi and outside Delhi wherever they be located.

20. The SLOC and the COB (where applicable) shall give directions to all Police Stations, investigative/enforcement agencies to prominently display at the entrance and inside the police stations/offices of investigative/enforcement agencies about the coverage of the concerned premises by CCTV. This shall be done by large posters in English, Hindi and vernacular language. In addition to the above, it

shall be clearly mentioned therein that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence. It shall further mention that CCTV footage is preserved for a certain minimum time period, which shall not be less than six months, and the victim has a right to have the same secured in the event of violation of his human rights.

21. Since these directions are in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution of India, and since nothing substantial has been done in this regard for a period of over 2½ years since our first Order dated 03.04.2018, the Executive/Administrative/police authorities are to implement this Order both in letter and in spirit as soon as possible. Affidavits will be filed by the Principal Secretary/Cabinet Secretary/Home Secretary of each State/ Union Territory giving this Court a firm action plan with exact timelines for compliance with today's Order. This is to be done within a period of six weeks from today.

22. We record our gratitude to Shri Siddhartha Dave, learned Amicus Curiae, for rendering his services to this Court.

23. The Supreme Court registry to send a copy of this Order to all Chief/Principal Secretaries of all the States and Union Territories,

both by physical as well as electronic means, today itself.

24. List on 27.01.2021.

……..……J.
(R. F. Nariman)

……..……J.
(K.M. Joseph)

……..……J.
(Aniruddha Bose)

New Delhi.
December 02, 2020.